

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carter Garfield	Team: Squad #10	CCRB Case #: 202002839	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/22/2020 7:40 PM	Location of Incident: West 173rd Street between Saint Nicholas Avenue and Broadway	Precinct: 33	18 Mo. SOL 10/22/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 04/22/2020 9:39 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 04/22/2020 9:39 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Yoan Deleon	15003	960432	033 PCT
2. POM Warren Ritter	20474	959135	033 PCT
3. POM Anthony Hamosfakidis	22306	964044	033 PCT
4. POM Peter Saladino	10271	959961	033 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Freddy Chalen	00000	929870	033 PCT
2. POM Quincy Jones	29296	967129	033 PCT
3. LT Mervin Bennett	00000	920019	028 PCT
4. SGT Craig Daley	03992	954692	PSA 7
5. PO Paul Rodriguez	12876	943750	033 PCT
6. SGT Bogdan Tabor	02942	942593	INT FIO PRG

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Hamosfakidis	Force: Police Officer Anthony Hamosfakidis used physical force against § 87(2)(b)	
B.POM Yoan Deleon	Force: Police Officer Yoan Deleon used physical force against § 87(2)(b)	
C.POM Warren Ritter	Force: Police Officer Warren Ritter used physical force against § 87(2)(b)	
D.POM Peter Saladino	Force: Police Officer Peter Saladino used physical force against § 87(2)(b)	
E.POM Peter Saladino	Discourtesy: Police Officer Peter Saladino spoke discourteously to § 87(2)(b)	
F.POM Anthony Hamosfakidis	Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to § 87(2)(b)	
G.POM Anthony Hamosfakidis	Off. Language: Police Officer Anthony Hamosfakidis made remarks to § 87(2)(b) based upon gender.	
H.POM Anthony Hamosfakidis	Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to § 87(2)(b)	
I.POM Anthony Hamosfakidis	Abuse: Police Officer Anthony Hamosfakidis refused to provide his shield number to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.POM Warren Ritter	Abuse: Police Officer Warren Ritter refused to provide his shield number to § 87(2)(b)	
K.POM Anthony Hamosfakidis	Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to § 87(2)(b)	
L.POM Anthony Hamosfakidis	Force: Police Officer Anthony Hamosfakidis hit § 87(2)(b) against a vehicle.	
M.POM Yoan Deleon	Force: Police Officer Yoan Deleon hit § 87(2)(b) against a vehicle.	
N.POM Warren Ritter	Force: Police Officer Warren Ritter hit § 87(2)(b) against a vehicle.	
O.POM Anthony Hamosfakidis	Force: Police Officer Anthony Hamosfakidis used physical force against § 87(2)(b)	
P.POM Peter Saladino	Force: Police Officer Peter Saladino used physical force against § 87(2)(b)	
Q.POM Anthony Hamosfakidis	Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to § 87(2)(b)	
R.POM Peter Saladino	Abuse: Police Officer Peter Saladino refused to provide his shield number to § 87(2)(b)	

### Case Summary

On April 22, 2020, § 87(2)(b) filed the following complaint on the CCRB website. On February 16, 2022, this case was reassigned from Inv. Bryon to Inv. Garfield.

On April 22, 2020, at approximately 7:40 p.m., § 87(2)(b) was in her apartment at § 87(2)(b) in Manhattan she witnessed a man being chased by officers from her window. The man (identified by the investigation as § 87(2)(b)) was taken to the ground by PO Anthony Hamosfakidis, PO Yoan Deleon, PO Warren Ritter, and PO Peter Saladino, all of the 33<sup>rd</sup> Precinct (**Allegations A – D: Force – Physical force**, § 87(2)(g)). While officers struggled to restrain § 87(2)(b) PO Saladino said, “Give me your fucking hands” (**Allegation E: Discourtesy – Word**, § 87(2)(g)). PO Hamosfakidis placed handcuffs on § 87(2)(b) and said, “Fucking pussy.” (**Allegation F: Discourtesy – Word**, § 87(2)(g)) (**Allegation G: Offensive Language – Gender**, § 87(2)(g)) § 87(2)(b) called out from her window for the officer’s shield numbers, and PO Hamosfakidis replied, “Shut the fuck up” (**Allegation H: Discourtesy – Word**, § 87(2)(g)) (**Allegation I: Abuse of Authority: Refusal to provide shield number**, § 87(2)(g)). § 87(2)(b) asked for shield numbers a second time, and PO Ritter replied to her, “Come down here and we’ll tell you.” (**Allegation J: Abuse of Authority: Refusal to provide shield number**, § 87(2)(g)).

Additional officers from the 33<sup>rd</sup> Precinct arrive on scene, including PO Quincy Jones, Sgt. Craig Dailey, Lieutenant Freddy Chalen, PO Paul Rodriguez, and Sgt. Bogdan Tabor. While § 87(2)(b) is on the ground in handcuffs, PO Hamosfakidis uses multiple additional profanities, including the lines, “You ate shit on that fucking car, didn’t you, huh? You ain’t fucking getting away”, “Disorderly conduct and fucking jaywalking”, and “Shut the fuck up” (**Allegation K: Discourtesy: Word**, § 87(2)(g)).

PO Hamosfakidis walked § 87(2)(b) to a police vehicle and, along with PO Deleon and PO Ritter, shoved § 87(2)(b) against the side of the vehicle (**Allegations L, M, N: Force – Physical force**, § 87(2)(g)). PO Hamosfakidis and PO Saladino used force to place § 87(2)(b) in the back of the police RMP (**Allegations O, P: Force – Physical Force**, § 87(2)(g)). As he does so, PO Hamosfakidis said, “Shut up and get in the fucking car. The fuck are you kicking? Why are you kicking?” (**Allegation Q: Discourtesy – Word**, § 87(2)(g)).

§ 87(2)(b) yells from her window again, “I want your badge numbers!” PO Saladino yells back to her, “Come down and get it then!” (**Allegation R: Abuse of Authority – Refusal to provide shield number**, § 87(2)(g)).

§ 87(2)(b) was arrested for obstruction of governmental administration § 87(2)(b). He was also issued summons § 87(2)(b) for jaywalking (**BR 24**).

There is BWC footage from PO Ritter, Lieutenant Chalen, PO Hamosfakidis, PO Jones, PO Deleon, and PO Saladino (**BRs 07-22**). Relevant portions will be discussed below.

### Findings and Recommendations

**Allegation (A) Force: Police Officer Anthony Hamosfakidis used physical force against**

§ 87(2)(b)

**Allegation (B) Force: Police Officer Yoan Deleon used physical force against** § 87(2)(b)

**Allegation (C) Force: Police Officer Warren Ritter used physical force against** § 87(2)(b)

§ 87(2)(b)

**Allegation (D) Force: Police Officer Peter Saladino used physical force against** § 87(2)(b)

§ 87(2)(b)

It was undisputed that § 87(2)(b) ran from police officers.

§ 87(2)(b) provided an intake (**BR 01**) and phone (**BR 02**) statement to the CCRB. She consistently stated that she was in her apartment, located on the § 87(2)(b) floor of § 87(2)(b) when she heard “keep walking, keep walking” over a loudspeaker coming from the street.

She went to her window and saw approximately five police vehicles and a man (identified by the investigation as § 87(2)(b) who was walking westbound on 173<sup>rd</sup> Street. Four or five officers exited their vehicles and began pursuing § 87(2)(b) who began running away from the officers. Officers attempted to restrain § 87(2)(b) by grabbing his waist and throwing him against a parked vehicle on the street, but § 87(2)(b) escaped and continued running away. Officers caught up to him again and restrained him. § 87(2)(b) consistently stated that an officer punched § 87(2)(b) (in her phone statement she specified at least four times) in his upper back until he fell to the ground.

§ 87(2)(b) was not available to the investigation.

PO Hamosfakidis (**BR 03**) was interviewed. He stated that he and his partner, PO Deleon, assisted a plainclothes anticrime unit with a car stop at the corner of West 173<sup>rd</sup> and Amsterdam Avenue. He could not recall the names of the anticrime officers or the driver but recalled § 87(2)(b) standing next to the stopped vehicle and believed him to be a passenger. § 87(2)(b) was “disrupting the officers’ investigation” by yelling profanities and walking back and forth across 173<sup>rd</sup> Street. Every time § 87(2)(b) crossed the street towards the officers, they put their hands up in a “stay back” motion and told him to back up and that he was free to leave, but he kept coming back across the street towards the officers. PO Hamosfakidis did not recall how many times § 87(2)(b) crossed the street, but he was not crossing in the crosswalk (PO Hamosfakidis did not recall if he could see the pedestrian walk light or exactly how far § 87(2)(b) was from the crosswalk).

One of the officers (PO Hamosfakidis did not recall which officer or if it was an anticrime officer) asked § 87(2)(b) for his ID to issue him a summons. He did not recall what the officer wanted to issue a summons for, though it may have been for disorderly conduct. § 87(2)(b) started running, so PO Hamosfakidis and PO Deleon attempted to detain him by pursuing him. PO Hamosfakidis and PO Deleon got back in their vehicle, drove after § 87(2)(b) for about a block, and caught up with him on 173<sup>rd</sup> between St. Nicholas and Broadway. They got back out of their vehicle, ran after him, wrestled him to the ground, and handcuffed him.

PO Hamosfakidis told § 87(2)(b) to stop but did not recall any commands that he or other officers gave. PO Hamosfakidis was not sure who first made physical contact with § 87(2)(b) but he was “wrapped up and brought to the floor.” More than one officer was needed to bring § 87(2)(b) to the floor, but PO Hamosfakidis was not sure how many officers were present at that moment, who else participated besides himself, or any further details of the physical force used. § 87(2)(b) tried to push the officers away, grabbed officers’ arms, and flailed his own arms. PO Hamosfakidis said, “Give me your hands! Put your hands behind your back!” He did not recall any other commands given. PO Hamosfakidis and PO Deleon pulled § 87(2)(b)’s hands behind his back, though he did not recall any further details of how § 87(2)(b) was handcuffed or who helped him and his partner handcuff § 87(2)(b). PO Hamosfakidis did not recall punching § 87(2)(b) or seeing one punch or hit § 87(2)(b). PO Hamosfakidis stated that his BWC fell off during his pursuit of § 87(2)(b).

PO Deleon (**BR 04**) provided a statement consistent with PO Hamosfakidis’, with the following exceptions. He recalled either he or PO Hamosfakidis telling § 87(2)(b) to “Take a walk and let the officers do their job” during the car stop and that § 87(2)(b) ignored them. At one point, to overcome § 87(2)(b)’s resistance, PO Deleon punched § 87(2)(b) multiple times on his left side and lower back in order to get him to fall to the sidewalk.

PO Ritter (**BR 05**) stated that he was driving with his partner, PO Saladino, when they observed PO Hamosfakidis and PO Deleon driving after an individual who was running away from them on foot. He and PO Saladino stopped their vehicle, exited, and joined PO Deleon and PO Hamosfakidis in running after § 87(2)(b) to assist them in detaining him. By the time PO Ritter caught up with § 87(2)(b) he was already on the ground. PO Ritter and PO Saladino assisted in handcuffing § 87(2)(b) by grabbing his arms pulling his hands behind his back, though PO Ritter did not recall any further details of the physical force that was used, either by himself or other officers. PO Ritter did not see anyone punch or hit § 87(2)(b) during the incident.

PO Saladino (**BR 06**) provided a statement consistent with PO Ritter's, with the following exception. He stated that he recalled saying, "Give me your fucking hands" while officers struggled to place handcuffs on § 87(2)(b) as it was a stressful situation.

PO Deleon, PO Ritter, and PO Saladino's BWC videos all begin with the respective officer running (except PO Hamosfadikis, whose video begins after § 87(2)(b) is in handcuffs).

In PO Ritter's BWC (**BRs 08, 16**), PO Ritter runs down 173<sup>rd</sup> Street and gets to § 87(2)(b) who is lying face down on the ground, at 00:32. PO Hamosfadikis and PO Deleon are already there. Audio begins at 00:30 with multiple officers yelling "Put your hands behind your back." "Put your hands behind your back now! Give me your fucking hands!" is heard immediately afterward. Due to the shakiness of the video, it is difficult to see § 87(2)(b)'s movements, if any. It takes all four officers until 00:55 to put handcuffs on § 87(2)(b).

In PO Deleon's BWC (**BRs 10, 18**), PO Hamosfadikis appears to take § 87(2)(b) to the ground at 00:10 seconds. At 00:12 seconds, PO Deleon makes contact with § 87(2)(b) specifically grabbing § 87(2)(b)'s upper back. § 87(2)(b) is face down on the ground in the street. PO Deleon appears to strike § 87(2)(b) with a closed fist in his upper back three times.

The investigation obtained summons § 87(2)(b), which charges § 87(2)(b) with a violation of 4-04(c)1 at the incident location (**BR 24**).

Arrest report § 87(2)(b) charges § 87(2)(b) with Obstruction of Governmental Administration (second degree), two charges of disorderly conduct (one for obscene language and another for obstructing traffic), and harassment in the second degree (physical contact) (**BR 23**). The details include "Def. was observed crossing across a street at above location when a pedestrian control signal facing the Def. was displaying a steady "Don't Walk." Upon advising Def. to stop and produce ID, Def. did ran from police preventing from police to do their job. When Def. was placed under arrest, Def. did kick police in the feet, no injuries. While running from police, Def. did make unreasonable noise and used obscene language with intent to harass."

A TRIs and a TRI Worksheet was prepared for this incident, § 87(2)(b), that were consistent with arrest report (**BRs 37-42**).

NYC Traffic Law § 4-04 (c) states "No pedestrian shall enter or cross a roadway at any point where signs, fences, barriers, or other devices are erected to prohibit or restrict such crossing or entry. No pedestrian shall cross any roadway at an intersection except within a cross- walk" (**BR 25**).

Patrol Guide Procedure 221-01 (**BR 26**) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

It was undisputed that § 87(2)(b) ran from officers. The BWC footage showed that once the officers caught up to him, it took four officers over thirty seconds to place § 87(2)(b) into handcuffs. The BWC footage also showed § 87(2)(b) ignoring officers' commands to show his hands. All four officers consistently stated that § 87(2)(b) resisted arrest by pushing away from the officers and moving his arms around.

§ 87(2)(g)

**Allegation (E) Discourtesy: Police Officer Peter Saladino spoke discourteously to § 87(2)(b)**

**Allegation (F) Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to**

§ 87(2)(b)

**Allegation (G) Offensive Language: Police Officer Anthony Hamosfakidis made remarks to**

§ 87(2)(b) based upon gender.

**Allegation (H) Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to**

§ 87(2)(b)

**Allegation (I) Abuse of Authority: Police Officer Anthony Hamosfakidis refused to provide his shield number to § 87(2)(b)**

**Allegation (J) Abuse of Authority: Police Officer Warren Ritter refused to provide his shield number to § 87(2)(b)**

**Allegation (K) Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to**

§ 87(2)(b)

§ 87(2)(b) did not mention any discourtesies directed toward § 87(2)(b) but she consistently stated that she yelled from her window for the officer's badge numbers, and they responded, "You fucking come down here and we will give it to you" (BRs 01, 02).

In PO Ritter's second BWC (BRs 08, 16), at 00:30, an officer is heard saying, "Give me your fucking hands." At 00:53, PO Hamosfakidis places § 87(2)(b) in handcuffs and calls him a "fucking pussy." § 87(2)(b)'s voice is heard saying, "I want your badge numbers." PO Hamosfakidis turns his head toward § 87(2)(b)'s building and says in response, "Shut the fuck up." § 87(2)(b) is saying nothing at this point. § 87(2)(b) is heard asking again, and at 1:15, PO Ritter says, "Come down here and we'll tell you." At 1:51, officers are explaining to § 87(2)(b) why he is being arrested. PO Hamosfakidis says, "Disorderly conduct and fucking jaywalking. So shut the fuck up. And fucking OGA too."

PO Hamosfakidis continues to use discourteous language in various phrases for the next two minutes directed at § 87(2)(b). In PO Saladino's BWC (BRs 09, 17), at 1:25, § 87(2)(b) says, "You mad because you fell?" PO Hamosfakidis says, "You ate shit on that fucking car, didn't you, huh? You ain't fucking getting away."

PO Hamosfakidis (BR 03) did not have any independent recollection of a woman yelling down from her window and asking officers for their shield numbers. He did not recall anyone asking him or other officers for his shield number during the incident. He did not recall himself or any officer saying "come the fuck down and we'll give it to you" or use the word "fuck" at any point. He did not recall any profanity being used during incident. PO Hamosfakidis did not recall calling § 87(2)(b) a "pussy." PO Hamosfakidis was shown BWC footage, but was not sure whether it was his voice making those statements.

PO Deleon (BR 04) initially said that he did not recall anyone requesting a shield number during this incident. However, PO Deleon's BWC footage refreshed his memory of a woman yelling from a balcony. He could not make out anything the woman was saying either from his independent recollection of the incident date or while watching the BWC. PO Deleon did not recall anyone asking him or any other officer for a shield number at any point during the incident. PO Deleon did not recall anyone saying "fucking pussy" or using profanity at any point during the incident.

PO Ritter (BR 05) stated that he recalled a woman yelling down from her window "I want his name and shield," but PO Ritter did not know whose name and shield number she was asking for. Since she said, "his name" and not "your name," PO Ritter did not know if she was requesting his name and shield number in particular, so he did not provide either. PO Ritter did not recall

anyone using profanity such as calling § 87(2)(b) a “fucking pussy” or telling him to “get in the fucking car.”

PO Saladino (**BR 06**) stated that while he was trying to handcuff § 87(2)(b) he said, “Give me your fucking hands” because it was a stressful situation. He did not provide his shield number to any civilian at any point. He had no independent recollection of any profanity being used during this incident.

In DAO-DCT Case Number: 2017-17276 (BR 27) the court held that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent and stressful confrontation.

Patrol Guide Procedure 200-02 (BR 28) states that officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

Patrol Guide Procedure 203-10 (BR 29) prohibits officers from “using discourteous or disrespectful remarks regarding another person’s ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.”

When PO Saladino said, “Give me your fucking hands” to § 87(2)(b) § 87(2)(b) had been resisting arrest. § 87(2)(g)

The investigation determined the word “pussy” to be an offensive term regarding § 87(2)(b)s gender, thus an offensive language allegation was pleaded with a discourtesy.

The BWC confirmed that PO Hamosfadikis called § 87(2)(b) a “fucking pussy” after he was handcuffed. § 87(2)(g)

While PO Hamosfadikis stated he had no independent recollection of using profanity to § 87(2)(b) the BWC footage showed him turning his head toward § 87(2)(b) and stating, “Shut the fuck up” in response to § 87(2)(b)s request for shield numbers. § 87(2)(g)

Patrol Guide Procedure 203-09 (BR 30) states that officers must courteously and clearly state your rank, name, shield number, and command, or otherwise provide them, to anyone who requests you to do so. Officers must allow members of the public ample time to write down identification information.

While PO Ritter said he was not sure which officer specifically § 87(2)(b) was requesting shield numbers for and PO Hamosfadikis did not recall refusing to provide his shield number, the BWC footage showed that both he and PO Hamosfadikis responded to § 87(2)(b)s request without providing the requested information. This indicated that they believed the request was directed to them and therefore, allegations were pleaded against them.

§ 87(2)(g)

PO Hamosfadikis’ continued use of the word “fuck” and “shit,” after § 87(2)(b) was handcuffed, § 87(2)(g)

**Allegation (L) Force: Police Officer Anthony Hamosfakidis hit § 87(2)(b) against a vehicle.**

**Allegation (M) Force: Police Officer Yoan Deleon hit § 87(2)(b) against a vehicle.**

**Allegation (N) Force: Police Officer Warren Ritter hit § 87(2)(b) against a vehicle.**

**Allegation (O) Force: Police Officer Anthony Hamosfakidis used physical force against**

§ 87(2)(b)

**Allegation (P) Force: Police Officer Peter Saladino used physical force against**

§ 87(2)(b)

**Allegation (Q) Discourtesy: Police Officer Anthony Hamosfakidis spoke discourteously to**

§ 87(2)(b)

§ 87(2)(b) consistently stated (BRs 01, 02) that § 87(2)(b) was picked up off the ground by four to six officers, who led him to a marked police vehicle and shoved him up against it. She did not mention any additional profanity.

In PO Hamosfakidis' BWC (BRs 12, 20), at 00:50, PO Hamosfakidis and PO Deleon pick § 87(2)(b) up from where he is sitting in the middle of the street and walk him towards the patrol car. They do this by holding § 87(2)(b) by his shoulders, one on each side. § 87(2)(b) is yelling, "For jaywalking! How the fuck you beat me up for jaywalking?" PO Hamosfakidis tells § 87(2)(b) to walk three times. § 87(2)(b) appears to attempt to turn away from the police vehicle. At 1:09, officers tell § 87(2)(b) who is still yelling, to relax three times. At 1:13, PO Ritter, PO Deleon, and PO Hamosfakidis are holding § 87(2)(b) and push him up against the side of the vehicle, again telling him to relax. At 1:45, PO Hamosfakidis opens the door of the police vehicle for § 87(2)(b) and tells him to "Get in the car. Shut up and get in the fucking car." PO Hamosfakidis pushes § 87(2)(b) into the police vehicle and says, "What the fuck are you kicking? Why are you kicking?" PO Deleon is seen pulling § 87(2)(b) into the car from the other side.

In PO Ritter's second BWC (BRs 08, 16), at 2:45, § 87(2)(b) is turned around by PO Deleon, PO Hamosfakidis, and PO Ritter, and is placed against the car again. His chin appears to hit the top of the vehicle when he is placed against it. § 87(2)(b) is then searched.

PO Hamosfakidis (BR 03) did not recall himself or any officer shoving § 87(2)(b) against a parked vehicle. As PO Hamosfakidis placed § 87(2)(b) in the back of the police vehicle to take him back to the stationhouse, § 87(2)(b) kicked him in the arm. § 87(2)(b) was sitting in the backseat of the vehicle at the time he kicked PO Hamosfakidis, who was standing just outside the vehicle trying to close the back door. PO Hamosfakidis did not recall what foot § 87(2)(b) kicked him with or what arm the kick landed on. He had no independent recollection of saying "Get in the fucking car." Upon reviewing his BWC, PO Hamosfakidis' said it refreshed his memory of saying "Shut up and get in the fucking car" because § 87(2)(b) would not get in the car and was "tensing up" and stiffening his body. He did not know why it was necessary to curse at that point.

PO Deleon (BR 04) provided a statement consistent with PO Hamosfakidis' with the following exceptions. Upon reviewing his BWC, he could not recall who specifically said, "Get in the fucking car."

PO Saladino (BR 06) said § 87(2)(b) began kicking his legs and flailing his arms while he was being put in the back of a police vehicle. He initially could not recall using any force, but after reviewing his BWC stated that he went to the other side of the vehicle and brought § 87(2)(b) further into the car by placing his hands under § 87(2)(b)'s arms and pulling him.

Patrol Guide 221-02 defines "active resistance" as "physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody." "Passive resistance" is defined as "minimal physical action to prevent a member from performing their lawful duty. For example, a subject failing to comply with a lawful command and stands motionless and/or a subject going limp when being taken into custody" (BR 31).

Patrol Guide Procedure 221-01 (BR 26) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the



perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

Patrol Guide Procedure 200-02 (BR 28) states that officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

In DAO-DCT Case Number: 2017-17276 (BR 27) the court held that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent and stressful confrontation.

The BWC showed that § 87(2)(b) was actively resisted being placed into custody by ignoring officers' commands to walk to the police vehicle, trying to pull away from officers, and yelling after being told to relax three times. § 87(2)(g)

Furthermore, while the BWC showed that § 87(2)(b) bumped his chin against the police vehicle after officers turned him around, there was no indication that this was intentional. § 87(2)(g)

Furthermore, § 87(2)(b) was not complying with PO Hamosfadikis' command to get inside the vehicle when PO Hamosfadikis pushed him. By ignoring commands to get in the car, § 87(2)(b) was still resisting and preventing officers from placing him into custody. § 87(2)(g)

The BWC showed that PO Hamosfadikis said, "Shut up and get in the fucking car" and "What the fuck are you kicking? Why are you kicking" to § 87(2)(b) § 87(2)(g)

**Allegation (R) Abuse of Authority: Police Officer Peter Saladino refused to provide his shield number to § 87(2)(b)**

In her intake statement (**BR 01**), § 87(2)(b) stated that she asked for asked for officers' badge numbers five times. After § 87(2)(b) was placed in the police vehicle, she asked for the fourth time, and officers again told her to come down and they would provide it to her.

In PO Saladino's BWC (**BRs 09, 17**), at 3:35, PO Saladino closes the door to the police vehicle that § 87(2)(b) is inside of. § 87(2)(b) is heard saying, "I want your badge numbers." PO Saladino yells back, "Come down and get it, then!"

PO Saladino (**BR 06**) said that right before he left the scene, an unknown woman yelled down from her window requesting names and badge numbers. PO Saladino did not know who she was or whose names and badge numbers she was requesting, so he did not provide either his name or shield number.

Patrol Guide Procedure 203-09 (BR 30) states that officers must courteously and clearly state your rank, name, shield number, and command, or otherwise provide them, to anyone who requests you to do so. Officers must allow members of the public ample time to write down identification information.

While PO Saladino stated that he did not provide his shield number because he did not know if § 87(2)(b) was requesting his specifically, the BWC captured him verbally responding to § 87(2)(b) which indicated that he believed the request was directed at him. Despite responding, he did not provide the requested information as required.

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) is a party (**BR 32**).
- This is the first CCRB complaint in which § 87(2)(b) is a party (**BR 33**).
- PO Hamosfadikis has been a member of service for four years and has been a subject of one CCRB complaint and two allegations, neither of which were substantiated. § 87(2)(g)
- PO Deleon has been a member of service for six years and has been a subject of three CCRB complaints and eleven allegations, none of which were substantiated.
  - § 87(2)(g)
- PO Ritter has been a member of service for six years and this is the first CCRB complaint in which he is listed as a subject. § 87(2)(g)
- PO Saladino has been a member of service for six years and has been a subject of one CCRB complaint and three allegations, none of which were substantiated. § 87(2)(g)

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On February 23, 2022, a FOIL request for any Notice of Claim was filed with the Office of the Comptroller and will be added to the case file upon receipt (**BR 34**).
- § 87(2)(b)

Squad No.: 10

Investigator:	<u>Carter Garfield</u>	<u>Inv. Garfield</u>	<u>3/1/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Eric Rigie</u>	<u>IM Eric Rigie</u>	<u>3/2/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date